

Panaji, 6th August, 2004 (Sravana 15, 1926)

SERIES I No. 19

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/A/Bills/7076/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 2-8-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Salaries and Allowances of the Speaker and Deputy Speaker
(Amendment) Bill, 2004

(Bill No. 26 of 2004)

A

BILL

further to amend the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Salaries and Allowances of the Speaker and Deputy Speaker (Amendment) Act, 2004.

(2) It shall be deemed to have come into force on the 1st day of July, 2004.

2. *Amendment of section 3.*— In section 3 of the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964 (Act 4 of 1965) (hereinafter referred to as the "principal Act"), in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the Speaker shall be entitled, so long as he is not provided with residence, to a compensatory allowance of rupees ten thousand per month."

3. *Omission of section 7.*— Section 7 of the principal Act shall be omitted.

4. *Amendment of section 8.*— For section 8 of the principal Act, the following section shall be substituted, namely:—

"8. *Speaker and Deputy Speaker not to draw any salary as a member.*— The Speaker and Deputy Speaker shall not be entitled to receive salary and allowances under the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004, except the allowances, advances and other benefits admissible to them as a Member of the Legislative Assembly under the provisions of the aforesaid Act, 2004."

Statement of Objects and Reasons

The Bill seeks to amend section 3 of the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964 (Act 4 of 1965), so as to provide therein that the Speaker shall be entitled to a compensatory allowance of Rs. 10,000/- per month so long as he is not provided with residence.

The Bill seeks to omit section 7 and amend section 8 of the said Act, 1964, in view of the

provisions made in the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Bill, 2004.

This Bill seeks to achieve the above objects.

Financial Memorandum

Additional expenditure on account of the proposed amendment will be about Rs. 1,20,000/- per annum in case no residence is provided and compensatory allowance is paid to the Speaker.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, 2nd August, 2004. FRANCISCO D'SOUZA
Minister for Legislative Affairs

Assembly Hall, SUDHIR NARVEKAR
Porvorim, Goa Secretary to the Legislative
2nd August, 2004. Assembly of Goa

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, Governor of Goa, hereby recommend the introduction and consideration of the Goa Salaries and Allowances of the Speaker and Deputy Speaker (Amendment) Bill, 2004, by the Legislative Assembly of Goa.

ANNEXURE

Extract of the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964
(Act 4 of 1965)

Section 3

3. *Salary and allowances of the Speaker.*— (1) The Speaker shall be paid such salary, conveyance allowance, travelling, sumptuary and daily allowances and shall be entitled to such amenities regarding residence, motor car and travel as are provided for the Chief Minister under the Goa Salaries and Allowances of Ministers Act, 1964.

Section 7

7. *Medical treatment, etc. to Speaker and Deputy Speaker.*— The Speaker and the Deputy Speaker and the Members of their families shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to Medical treatment in accordance with the relevant rules applicable to Class I Officers of the Central Government serving in connection with the administration of the State of Goa.

Explanation.— In this section, the expression "family" shall have the meaning given to it under the Goa Salaries and Allowances of Ministers Act, 1964.

Section 8

8. *Speaker and Deputy Speaker not to draw any salary as a member.*— Subject to the provisions in section 3AAA of the Goa Salary, Allowances and Pension of the Members of the Legislative Assembly Act, 1964 (Act 2 of 1965), the Speaker and the Deputy Speaker shall not be entitled to receive any Salary or allowances under the said Act.

Assembly Hall,
Porvorim,
2nd August, 2004.

SUDHIR NARVEKAR
Secretary to the Legislative
Assembly of Goa.

LA/A/Bills/7077/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 2-8-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Salaries and Allowances of Ministers (Amendment) Bill, 2004

(Bill No. 27 of 2004)

A

BILL

further to amend the Goa Salaries and Allowances of Ministers Act, 1964 (Act 3 of 1965)

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Salaries and Allowances of Ministers (Amendment) Act, 2004.

(2) It shall be deemed to have come into force on the 1st day of July, 2004.

2. *Amendment of section 3.*— In section 3 of the Goa Salaries and Allowances of Ministers Act, 1964 (Act 3 of 1965) (hereinafter referred to as the "principal Act"), in sub-section (2), in item 1, for the figures "10,000/-", the figures "15,000/-" shall be substituted.

3. *Amendment of section 4.*— In section 4 of the principal Act,—

(i) the words "except the Chief Minister" shall be omitted;

(ii) before the Explanation, the following proviso shall be inserted, namely:—

"provided that the Chief Minister shall not be entitled to the compensatory allowance as aforesaid.

4. *Omission of section 4A.*— Section 4A of the principal Act shall be omitted.

5. *Amendment of section 5.*— In section 5 of the principal Act, sub-section (2), shall be omitted.

6. *Omission of sections 6 and 8.*— Sections 6 and 8 of the principal Act shall be omitted.

7. *Substitution of section 9.*— For section 9 of the principal Act, the following section shall be substituted, namely:—

"9. *Minister not to draw salary or allowances as Member of the Legislative Assembly.*— A Minister shall not be entitled to receive salary and allowances under the Goa Salary, Allowances and Pension of Members of Legislative Assembly Act, 2004, except the allowances, advances and other benefits admissible to the Minister as a Member of Legislative Assembly under the aforesaid Act, 2004.

Statement of Objects and Reasons

The Bill seeks to amend the sub-section (2), of Section 3 of The Goa Salaries and Allowances of Minister Act, 1964, so as to increase the monthly sumptuary allowance of the Chief Minister from Rs. 10,000/- to Rs. 15,000/-. Further it seeks to amend section 4 of the principal Act, as regards to residence compensatory allowance wherein the words "except the Chief Minister" shall be omitted and to insert the following proviso before the explanation, "provided that the Chief Minister shall not be entitled to the compensatory allowance as aforesaid. It is also proposed to seek to omit Section 4A as regards to Constituency office allowance, wherein each Minister except the Chief Minister was entitled for an allowance of Rs. 3,000/- per month for use of an office in their Constituency.

Similarly the Bill seeks to omit sub-section (2) of section 5, regarding entitlement of 60 litres of petrol per month to the Minister, at the cost of the Government. It is also sought for omission of sections 6 and 8 of the principal Act as regards to Motor Car Advance and Medical

Treatment, etc. to Ministers. Finally, it is seek to substitute section 9 of the principal Act, wherein a Minister shall not be entitled to receive salary and allowances under the Goa Salary, Allowances and Pension of Members of Legislative Assembly Act, 2004, except the allowances, advances and other benefits admissible to the Ministers as a member of Legislative Assembly under the aforesaid Act, 2004.

This Bill seeks to achieve the above objects.

Financial Memorandum

The additional financial liability on account of the proposed increase in sumptuary allowance to the Chief Minister would be to the extent of Rs. 60,000/- per annum.

Memorandum Regarding Delegated Legislation

No delegated Legislation is envisaged in this Bill.

Panaji, Goa.
2nd August, 2004.

MANOHAR PARRIKAR
Chief Minister
Panaji-Goa.

Assembly Hall,
Porvorim, Goa
2nd August, 2004.

SUDHIR NARVEKAR
Secretary (Legislature).

Governor's Recommendation under Article 207 of the Constitution

In pursuance of article 207 of the Constitution of India, I, S. C. Jamir, Governor of Goa, hereby recommend the introduction of the Goa Salaries and Allowances of Ministers (Amendment) Bill, 2004, by the Legislative Assembly of Goa.

ANNEXURE

Extract of the Goa Salaries and Allowances of Ministers Act, 1964 (Act No. 3 of 1965)

Section 3:

3. *Salary and Sumptuary Allowance.*— (1) There shall be paid to each Minister a monthly salary as laid down below, namely:—

1. Chief Minister	...	...	Rs. 8,000/-
2. Dy. Chief Minister	...	...	Rs. 7,000/-
3. Minister	...	...	Rs. 6,000/-
4. Minister for State/Dy. Minister	...	...	Rs. 5,000/-

(2) Every Minister shall also be entitled to a monthly sumptuary allowance as laid down below, namely:—

1. Chief Minister	Rs. 10,000/-
2. Dy. Chief Minister... ..	Rs. 9,500/-
3. Minister	Rs. 9,000/-
4. Minister for State/Dy. Minister	Rs. 5,000/-

Section 4

4. *Residence of Minister.*— Each Minister except the Chief Minister shall be entitled, without any payment, to the use and maintenance of furnished residence throughout his term of office and for a period of 15 days immediately thereafter, and so long as such residence is not provided, to a compensatory allowance of Rs. 10,000/- per month.

Explanation.— For the purpose of this Section,—

(i) 'residence' includes the staff quarters and other buildings appurtenant thereto and the garden thereof but does not include such portion of the residence or buildings appurtenant thereto as is exclusively set apart of use as office at the residence and is used as such;

"(ii) "maintenance" in relation to a residence includes as payment of local rates and taxes and provision of electricity and water, which shall be paid by the Government".

Section "4A

"4A. *Constituency office allowance.*— Each Minister, except the Chief Minister, using a premise in his Constituency for the purpose of his office, shall be entitled for an allowance of rupees three thousand per month".

Section 5

5. *Motor car amenities.*— "(1) Each Minister shall be entitled to the free use of a motor car which shall be provided and maintained by the Government and the services of a chauffeur.

(2) Each Minister shall be entitled for a maximum of two hundred litres of petrol/diesel per month, for the use of his personal vehicle, the cost of which shall be borne by the Government in the prescribed manner.

"Explanation.— The words "by the Government" shall be deemed to have been substituted by the words "the Legislative Assembly Secretariat" in case of application of this provision to the Speaker and the Deputy Speaker".

Section 6:

6. *Motor car advance.*— In cases falling under sub-section (3) of section 5, there may be paid to a Minister, by way of repayable advance, such sum of money and subject to conditions as may be prescribed".

Section 8

8. *Medical treatment, etc. to Ministers.*— A Minister and the members of his family shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to medical treatment in accordance with the relevant rules for the time being applicable to officers of class I of the Central Government serving in connection with the administration of the State of Goa.

Section 9

"9. *Minister not to draw salary or allowances as Member of the Legislative Assembly.*— Except Constituency Allowance as specified in section 3AAA of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 1964, a Minister shall not be entitled to receive any salary or allowances under the said Act".

LA/A/Bills/7078/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 29-7-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Members of the Legislative Assembly
(Special Rights)
(Amendment) Bill, 2004

(Bill No. 22 of 2004)

A

BILL

to amend the Goa Members of the Legislative Assembly (Special Rights) Act, 1995.

BE it enacted by the Legislative Assembly of the State of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Members of the Legislative Assembly (Special Rights) (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Insertion of new section 3-A.*— After section 3 of the Goa Members of the Legislative Assembly (Special Rights) Act, 1995 (Act 18 of 1995), the following section shall be inserted, namely:—

"3-A. Act to apply to certain cases.— Notwithstanding anything to the contrary contained in this Act, the provisions of this Act shall be applicable to any elected Member of the Legislative Assembly of the State of Goa or of the then Union Territory of Goa, Daman and Diu, as the case may be, who, on the date of his election as such member, was employed in a Government Aided Primary, Middle, Secondary or Higher Secondary Educational Institution in Goa, at any time during the period commencing from the 1st day of January, 1981 to the 31st day of March, 1995."

Statement of Objects and Reasons

In terms of section 3 of the Goa Members of the Legislative Assembly (Special Rights) Act, 1995 (Act 18 of 1995), the Members of the Legislative Assembly who are employed in Government aided educational institutions have been granted certain benefits vis-à-vis the grant of leave of absence to such Members by the managements of such educational institutions. The said Act, 1995, has come into force with effect from the 1st day of April, 1995, and as such, the benefits under the said Act, 1995, are available with effect from the 1st day of April, 1995.

On a representation received from a former Member of the Legislative Assembly, who was a Member from the year 1990 to 1995, to regularize her leave as she could not avail the benefits of the provisions of the said Act, 1995, as the said Act, 1995, was in force from 1st April, 1995, the matter has been examined by the Government and it has been decided to cover all the cases of Members of the Legislative Assembly, who, on the date of their election as such Member, were employed in a Government aided educational institution at any time during the period commencing from the 1st day of January, 1981 to the 31st day of March, 1995, by inserting a new section 3-A in the said Act, 1995.

This Bill seeks to achieve the above object.

Financial Memorandum

In view of proposed insertion of new section 3-A in the Act, financial implications are involved vis-à-vis grant of retirement/pensionary benefits to the Members who on the date of their election as Members, were employed in a Government aided educational institution during the period from 1-1-1981 to 31-3-1995. The expenditure that

will be incurred on account of the proposed new section 3-A cannot be quantified at this stage.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim,
26th July, 2004.

FRANCISCO D'SOUZA
Minister for Legislative Affairs.

Assembly Hall,
Porvorim, Goa
26th July, 2004.

SUDHIR NARVEKAR
Secretary to the Legislative
Assembly of Goa.

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, Governor of Goa, hereby recommend the introduction and consideration of the Goa Members of the Legislative Assembly (Special Rights) (Amendment) Bill, 2004, by the Legislative Assembly of Goa.

ANNEXURE

Extract of the Goa Members of the Legislative
Assembly (Special Rights) Act, 1995
(Act 18 of 1995)

Section 3

3. *Special rights of Members of the Legislative Assembly.*— (1) Where an elected Member of the Legislative Assembly of the State of Goa is, on the date of his election, employed in a Government Aided Primary, Middle, Secondary or Higher Secondary Educational Institution, then, if,—

(a) elected by the Legislative Assembly as the Speaker or Deputy Speaker thereof; or

(b) appointed as a Minister under Article 164 of the Constitution of India or recognised as Leader of Opposition; or

(c) exercises option to be on special leave as specified in this sub-section;

he shall be entitled to a special leave without pay from the concerned educational institution till he continues to hold such office or the membership as the case may be and shall, on giving a notice of holding of such office, be deemed to be on special leave from the educational institution in which he was so employed from the date of such election, appointment or recognition, as the case may be.

(2) If the provision of sub-section (1) is not applicable to any such Member, he shall be granted special leave without pay by the educational institution to attend to the Business of the Legislative Assembly for such period as may be specified in a certificate to be issued by the Speaker of the Legislative Assembly.

(3) Any leave granted to a Member of the Legislative Assembly by the educational institution under the provisions of this section shall be deemed as period spent on duty for the purposes of retirement benefits as also for determination of his seniority in the educational institution.

Section 4

4. *Act to override other laws.*— The provisions of this Act shall have effect notwithstanding anything contained in the Goa, Daman and Diu School Education Act, 1984 (Act 15 of 1985).

Assembly Hall,
Porvorim, Goa,
26th July, 2004.

SUDHIR NARVEKAR
Secretary to the
Legislative Assembly
of Goa.

LA/A/Bills/7079/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 2-8-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Salary, Allowances And Pension of
Members of the Legislative
Assembly Bill, 2004

(Bill No. 25 of 2004)

A

BILL

*to provide for the salary, allowances and pension
of Members of the Legislative Assembly of Goa.*

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004.

(2) It shall be deemed to have come into force with effect from the 1st day of July, 2004.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "Assembly" means the Legislative Assembly of Goa;

(b) "Controlling Officer" means the Secretary to the Assembly;

(c) "committee" means a committee of the Assembly;

(d) "day" means a period of 24 hours beginning at midnight;

(e) "family" means a wife residing with the husband and legitimate children wholly dependent on him. If the Member is a married woman, "family" shall include her husband residing with her;

(f) "Government" means the Government of Goa;

(g) "member" means a member of the Assembly;

(h) "notification" means a notification published in the Official Gazette;

(i) "Official Gazette" means the Gazette published by the Government of Goa;

(j) "period on duty" means the days on which a Member attends a session of the Assembly or a sitting or a meeting of a committee or when he is on tour for each day of sanctioned travel;

(k) "prescribed" means prescribed by rules;

(l) "term of office" in relation to a member means the period beginning with the date when such member takes his seat in the Assembly and ending with the date on which his seat becomes vacant.

3. *Salaries and daily allowances.*— (1) A member shall be entitled to receive salary at the rate of five thousand rupees per month during his term of office and shall also be entitled to receive daily allowances at the rate of seven hundred and fifty rupees for each day during any period on duty.

Explanation.— Daily allowance shall be admissible to a member for each day on duty irrespective of the time of his arrival or departure.

(2) A member shall be entitled for an amount of Rs. 300/- (Rupees three hundred only), for each day on duty in lieu of the accommodation provided under section 13.

4. *Consolidated allowance.*— A member shall, during his term of office, be entitled to receive a consolidated allowance at the rate of five thousand rupees per month to cover conveyance, postage, stationery and constituency expenses.

5. *Motor car advance.*— (1) Subject to other provisions of this Act and to such conditions as may be prescribed, a Member may be sanctioned, by way of repayable advance, an amount of Rs. 6 lakhs for purchase of new motor car at such installments and interest fixed under the rules:

Provided that a member can avail of the maximum amount of advance of Rs. 6 lakhs and use the same, in part for the purpose of purchase of new motor car and in part for the repayment of outstanding amount of any advance or loan earlier availed of by a member for purchase of motor car either under this Act or any other law or rules made thereunder.

(2) The advance referred to in sub-section (1) may be availed of by a member once every three years provided the member has fully cleared any advance earlier availed under sub-section (1) and if such earlier advance has not been fully cleared, then, the member may be sanctioned a second advance only to the extent of the differential in the amount specified under sub-section (1).

(3) A motor car purchased under sub-section (1) shall be hypothecated to the Government and also insured, in the manner prescribed.

(4) A member may be allowed to sell the motor car purchased under sub-section (1) only for the purpose of repaying the entire amount of advance granted under sub-section (1), with the permission of the sanctioning authority.

(5) Notwithstanding anything contained in sub-section (1), any advance or loan availed of by a member for purchase of motor car under the provision of any other law or rules made thereunder shall continue to be governed by the provision of such other law or rules.

6. *Housing advance.*— (1) Subject to the provisions of this Act, a member may, during his term of office, be sanctioned a housing advance

of upto a maximum of Rs. 12 lakhs, repayable within a maximum period of ten years on such installments and interest as may be fixed by the Speaker, for construction of a house or a bungalow or for acquiring a flat, for residential purpose and such housing advance can be availed of by a member only once during his life time.

(2) The terms and conditions for the grant of housing advance under sub-section (1) shall be as prescribed and the recovery of the advance shall be made from the salary and pension of the member in the manner prescribed.

(3) Notwithstanding anything contained in sub-section (1), a member may be allowed to use out of the advance sanctioned to him under this section, for the purpose of repaying any existing loan availed of by a Member from any Bank or financial institution for the purpose of housing to full extent or for the purpose of carrying out repairs to his house to the extent of 50% of the limit.

(4) A house, bungalow, etc. constructed or a flat acquired with the advance granted under this section shall be mortgaged to the Government by means of a registered deed of mortgage in the manner prescribed and the member shall have no right to sell, mortgage, assign, transfer or alienate in any manner whatsoever such house bungalow, flat, etc., until the entire advance granted under this section is repaid by the member and such mortgage to the Government shall have priority over all other dues.

7. *Interest in case of default.*— In the event of default committed by a member in the repayment of even a single installment of any loan or advance granted to a member under any provision of this Act by the due date as fixed by the sanctioning authority, the concerned member shall be liable to pay penal interest at such rate as may be prescribed, on the entire amount of the loan or advance sanctioned, from the date of drawal of such loan or advance till the repayment of the full amount of such loan or advance.

8. *Creation of fund for unrecoverable advances.*— There shall be created a fund under the authority of the Speaker to which shall be credited by every member who has availed of an advance under section 5 or section 6 of this Act, an amount of Rs. 200/- per annum for every

lakh of rupees of advance granted under the said sections, and the amount in such fund shall be used towards meeting the unrecoverable advances under any of the provisions of this Act as and when such situation arises, in the manner prescribed. However, the amount credited to such fund shall not be considered as repayment towards the principal or interest of any advance or loan availed of by a member under this Act.

9. *Constituency allowance.*— Notwithstanding anything contained in any other law for the time being in force, there shall be paid to each member a constituency allowance at the rate of eight thousand rupees per every calendar month or a part thereof, during the term of the Assembly.

10. *Constituency office allowance.*— A member using a premises in his constituency for the purpose of his office shall be entitled for an allowance of rupees four thousand per month.

11. *Pension.*— (1) Subject to the other provisions of this Act, with effect from the 1st day of July, 2004, there shall be paid to every person who has been a member, a pension of rupees five thousand per mensem for the first year and five hundred rupees per month for every successive year of his membership in the Assembly subject to a maximum of rupees fifteen thousand per month and while reckoning the period of one year, days exceeding 180 days in a calendar year shall be counted as one year:

Provided that after the death of the person as aforesaid, the pension shall be payable to his widow or her widower, as the case may be, as long as she or he does not remarry and after the death of the widow or widower, as the case may be, the pension shall be payable to the male children of the person as aforesaid till they attain the age of 18 years and to unmarried dependent daughter till she gets married or till her death, whichever is earlier, and such pension shall be payable subject to the provisions in the succeeding sub-sections of this section and the other provisions of this Act.

(2) The pension payable to a person under sub-section (1), in case there be any outstanding amount or loan or any facilities availed under this Act, it shall be first adjusted towards repayment of such outstanding amount or loan or any facility availed of, including interest payable thereon, till such entire outstanding amount or loan or facility is cleared.

(3) Where any person entitled to pension under sub-section (1)—

(i) is elected to the office of the President or Vice-President or is appointed to the office of the Governor of any State or the Administrator of any Union Territory; or

(ii) becomes a member of the Council of States or the House of the People or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State; or

(iii) is employed on a salary under the Central Government, or any State Government or any Corporation owned or controlled by the Central Government or by any State Government or any local authority or becomes otherwise entitled to any remuneration from such Government, Corporation or local authority, such person shall not be entitled to any pension under sub-section (1) for the period during which he continues to hold such office or as such member, or is so employed, or continues to be entitled to such remuneration:

Provided that where the salary payable to such person for holding such office or being such member or so employed or whom the remuneration referred to in clause (iii) payable to such person is, in either case, less than the pension payable to him under sub-section (1), such person shall be entitled only to receive the balance as pension under that sub-section.

(4) Where any person entitled to pension under sub-section (1) is also entitled to any pension from the Central Government or any State Government, or any corporation owned or controlled by the Central Government or any State Government, or any local authority under any law or otherwise, then,

(a) where the amount of pension to which he is entitled under such law or otherwise, is equal to or in excess of that to which he is entitled under sub-section (1), such person shall not be entitled to any pension under that sub-section; and

(b) where the amount of pension to which he is entitled under such law or otherwise, is less than that to which he is entitled under sub-section (1), such person shall be entitled to pension under that sub-section only of an amount which falls short of the amount of pension to which he is otherwise entitled under that sub-section:

Provided that any pension (whether known as Swantantra Sainik Samman pension or by any other name) received by such pensioner as a freedom fighter or any pension received by such pensioner as a teacher in an aided educational institution shall not be taken into account for the purpose of this sub-section and such person shall be entitled to receive such pension in addition to the pension to which he is entitled under sub-section (1).

(5) In computing the number of years for the purpose of sub-section (1), the period during which a person has served as a Minister as defined in the Goa Salaries and Allowances of Ministers Act, 1964 (Act 3 of 1965) or as a Speaker or Deputy Speaker as defined in the Goa Salaries and Allowances of the Speaker and Deputy Speaker Act, 1964 (Act 4 of 1965) shall also be taken into account.

12. *Nomination.*— (1) Any person to whom any pension mentioned in section 11 is payable (hereinafter referred to as "the pensioner"), may nominate any other person (hereinafter referred to as the "nominee") in such manner as may be prescribed, to receive after the death of the pensioner, all moneys payable to the pensioner on account of such pension, at, before or after the date of such nomination and which remains unpaid immediately before the death of the pensioner.

(2) The nominee shall be entitled, subject to there being no outstanding amount of any repayable advance or loan, on the death of the pensioner, to receive, to the exclusion of all other persons, all such moneys which have remained unpaid:

Provided that if the nominee predeceases the pensioner, the nomination shall, so far as it relates to the right conferred upon the said nominee, become void and of no effect:

Provided further that where provision has been duly made in the nomination, in accordance with rules made by the Government conferring upon some other person, the right to receive all such moneys, which have so remained unpaid, in the event of the nominee predeceasing the pensioner, such right shall, upon the death as aforesaid of the nominee, pass to such other persons.

13. *Accommodation in Government Hostel, etc.*— During his period on duty, a member may

be given a single room accommodation in the Government Guest House at Panaji, or any other Government owned Hostel or Hotel on rent at the rate of one rupee per day for lodging only.

14. *Travelling allowance.*— (1) In respect of every journey performed by a member for attending to any official business connected with his duties as a member outside the State, he shall be entitled to travelling allowance from his usual place of residence to such place where the business is to be transacted and for the return journey from such place to his usual place of residence, the amount of such allowance being such as would be admissible in respect of journeys on tour to a Group 'A' Officer of the Central Government serving in connection with the administration of the State of Goa and shall also be entitled to an advance of travelling allowance when proceeding on tour outside the State of Goa in connection with his duties as a member on the same terms and conditions as are applicable to the grant of an advance to the Group 'A' officer aforesaid in connection with a tour.

(2) Notwithstanding anything contained in sub-section (1), a member who performs a journey by road or by air between places connected by rail, whether wholly or in part, may draw the road mileage in place of the travelling allowance which would have been admissible to him if he had travelled by rail or actual air fare for each journey undertaken, as the case may be:

Provided that the total amount of travelling allowance drawn by such member for the entire journey shall not exceed the amount which would have been admissible to him, had he performed the journey by rail or actual air fare with respect to journey undertaken, as the case may be.

(3) A member travelling outside the State, either in the capacity of committee member or in any other official capacity, shall be entitled for reimbursement of an amount to the extent of Rs. 2500/- per day in lieu of his/her accommodation/stay during his/her travel as aforesaid.

15. *Petrol/diesel for personal vehicle.*— A member shall be entitled for a maximum of two hundred and fifty litres of petrol/diesel per month, for the use of his personal vehicle, the cost of which shall be borne by the Legislature Secretariat, in the manner prescribed.

16. *Medical treatment, etc. to members.*— (1) A Member and the members of his family shall be entitled, free of charge, to accommodation in hospitals maintained by the Government and also to medical treatment in the manner prescribed under this Act.

(2) The Speaker shall have power to sanction medical bills upto an amount of Rs. 3,00,000/- (Rupees three lakhs only), and for amounts exceeding Rs. 3,00,000/- (Rupees three lakhs only), the medical bills shall be referred to a panel consisting of the Chief Minister, the Speaker and the Leader of Opposition, for sanction. The operation of this section shall be in the manner prescribed by rules.

17. *Medical treatment to ex-members.*— Every person who is not a sitting member but has served for any period as a member, and his wife, shall be entitled, free of charge, to accommodation in hospitals maintained by the Government and also to medical treatment as prescribed and the medical bills shall be submitted to the Speaker or to the panel referred to in sub-section (2) of section 16, as the case may be, for sanction, in the manner prescribed.

18. *Telephone facilities.*— Where telephone facilities are available at the place declared by a member to be his head-quarters, he shall be entitled to have a telephone at his residence, or at the place where he ordinarily conducts his work relating to the Assembly subject to the condition that he shall meet the cost of the installation of such telephone in full and that, in regard to the recurring charges, he shall be entitled to telephone allowance of Rs. 5000/- per month.

19. *Personal assistants.*— Subject to the provisions of the rules made in this behalf, a member may appoint not more than four persons possessing such qualifications and on such terms and conditions as may be prescribed, as his personal assistants and the total remuneration payable to all such personal assistants shall not exceed Rs. 18,000/- (Rupees eighteen thousand only) per month.

Provided that in case a member engages the services of a serving Government employee as his personal assistant then the total remuneration of Rs. 18,000/- (Rupees eighteen thousand only) shall be reduced by an amount equivalent to the basic salary drawn by such Government

employee at the time of his engagement as personal assistant.

20. *Computer to the members.*— (1) Every member shall be provided with, either a lap top or a desk top computer, as per the choice of the member concerned, with an approved pre-loaded software, a printer and U.P.S. alongwith necessary connecting cables, for installation at a place identified by the member, and the total cost whereof, which shall be borne by the Legislature Secretariat, shall not exceed Rs. 1,25,000/- (Rupees one lakh twenty five thousand only).

(2) The member, however, shall bear the cost of all consumables and the cost of repairs, etc. to the hardware, as well as the cost incurred on further updating the preloaded software.

(3) After expiry of a period of three years from the date of supply of the computer under sub-section (1), the member shall have the option to purchase the computer provided to him under sub-section (1) after paying the depreciated cost of the computer.

(4) The Legislative Assembly Secretariat shall be responsible for purchase of hardware, software and other connected equipments for distribution to members as aforesaid and the Speaker shall frame the necessary rules for giving effect to the provisions contained in this section.

21. *Reimbursement of electricity and water charges.*— A member shall be entitled for reimbursement of the monthly electricity and water consumption charges in respect of his place of residence subject to a maximum amount of Rs. 4,000/- (Rupees four thousand only) per month.

22. *Allowances during short intervals between the termination of one session and the commencement of another session, etc.*— Where the interval between the adjournment of the Assembly or, as the case may be, one sitting of a committee and the re-assembly of that Assembly or the next sitting of the committee at the same place does not exceed three days and the member concerned elects to remain at such place during the interval, he shall be entitled to draw for each day on duty at such place a daily allowance at the rate specified in section 3.

Provided that if the member leaves such place during the interval, absence from the place shall be treated as absence during a session of the

Assembly or a sitting of the committee, as the case may be, and the provisions of section 3 shall apply accordingly.

23. *Certain sections not to apply to Chief Minister, Minister, etc.*— The provisions of sections 3, 13, 14, 19, 21 and 22 of this Act shall not be applicable to a member who is appointed as the Chief Minister, a Minister, a Minister of State, a Deputy Minister, or elected as the Speaker or Deputy Speaker.

24. *Power of the Speaker in certain cases.*— Separate accounts shall be created for implementation of the provisions of sections 5, 6 and 16 of this Act and the Speaker shall lay down guidelines and procedure for their operation.

25. *Procedure.*— The procedural provisions of the Schedule to this Act shall apply in respect of all claims for salary and allowances.

26. *Power to make rules.*— The Government or the Speaker, as the case may be, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

27. *Repeal and saving.*— (1) The Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 1964 (Act 2 of 1965) is hereby repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken including any rule, notification, scheme, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorization or exemption or loan or advance granted or any document or instrument executed or any direction given under the repealed Act shall be deemed to have been done or taken under the corresponding provisions of this Act;

(b) all rules or any schemes framed under the repealed Act shall, to the extent permissible and expedient, continue to be in force till the necessary rules or schemes, as the case may be, are framed under the provisions of this Act.

SCHEDULE

(See Section 25)

Procedural provisions.— (1) Every member shall, as soon as possible after he is elected or nominated, declare his usual place of residence to the Controlling Officer and

any subsequent change in the usual place of residence so declared shall be notified to the Controlling Officer in Form 'A' appended to this Schedule.

(2) A member who claims any travelling or other allowance under this Act shall support his claim by a certificate in the following form, namely:—

"Certified that no travelling allowance in respect of the journey or daily allowance for the period mentioned in this bill has been or will be claimed from any other official source".

(3) Where no part of the journey is performed by a conveyance provided at the expense of the Government or a Local Fund, the following certificate shall be furnished, namely:—

"Certified that I have not performed any part of the journey by a conveyance provided at the expenses of the Government or a Local Fund".

(4) After completing each final return journey on termination of a session of the Assembly or a sitting of a committee or any other business connected with duties as a member, a member shall furnish a certificate in Form 'B' appended to this Schedule.

(5) Ordinarily, any non-governmental dues outstanding against a member shall not be recovered from his salaries and allowances but where such dues are on account of certain services rendered to him in the course of his duties as a member, such as, when he is on tour with a committee, and the arrangements for such services have been made by or at the instance of semi-Government institutions or private parties at the request of officers of the Assembly, and where such member, inspite of repeated requests, had failed to make payment of such dues, recovery thereof may be effected from the salary or travelling or daily allowance bills of such member.

FORM 'A'

I have changed my usual place of residence from to
with effect from due to
(here state the reasons).

I may hence forward be allowed travelling allowances from

(Signature)

(Constituency)

(Date)

FORM 'B'

Departure and Return Journey Certificate

(The Certificates may kindly be filled in, signed and returned to the Secretary, Legislative Assembly, as soon as possible after the completion of the return journey).

(1) Certified that I performed the return journey under section 14 of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Act, 2004, leaving (place) on the (Date). I arrived at (Place) on the (Date).

(2) Certified that I have not performed any part of journey (other than the railway journey) by a conveyance provided at the expense of the Government or a Local Fund.

(3) Certified that I actually travelled by air from (Place) to (Place) by day/night service.

Payment of the Supplementary bill is required at (station).

Station

Dated

Member of the Legislative
Assembly
Constituency.....

Statement of Objects and Reasons

The Legislative Assembly of the then Union Territory of Goa, Daman and Diu, enacted the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly Act, 1964 (Act 2 of 1965) to provide for the Salaries and Allowances of the Members of the then Legislative Assembly of Goa, Daman and Diu. The said Act 2 of 1965, has since been amended from time to time to make provision for various other matters such as pension, etc. and provide for certain new facilities to the Members. The said Act, 1964, now provides for matters such as salary and daily allowance, Consolidated allowance, Motor car advance, Constituency allowance, Constituency office allowance, Pension, Nomination, accommodation in Government Hostel, travelling allowance, petrol for personal vehicle, travelling allowance for intermediate journey, Medical treatment, Telephone facilities, Personal assistants, Computer to the members, allowances during short intervals, etc., spread in various amendments to the said Act, 1964.

The Government has reviewed the various provisions as contained in the said Act, 1964, vis-a-vis the allowances, facilities, etc. available to the members and on such review, Government has decided to enact a new law by

repealing the existing Act 2 of 1965, so as to enhance the existing facilities available to the members and provide certain new facilities like housing loan, medical treatment to ex-members, etc., keeping in view the requirements of the members for efficient discharge of their duties as members of the Legislative Assembly.

This Bill seeks to achieve the above objects.

Financial Memorandum

Even though the Bill proposes to repeal the existing Act 2 of 1965 and enact a new law in its place, most of the facilities, etc. available to the members under the said Act 2 of 1965 will continue to be available under the new law but in an enhanced manner and certain new facilities are also proposed in the new law.

Hence, the additional financial liabilities are as follows:-

- (1) The additional liability on account of increase in the salary components of Members i.e. Constituency Allowance and Constituency Office Allowance, amounts to Rs. 6 lakhs per annum.
- (2) The additional liability on account of increase in the supply of 50 litres more petrol/diesel is around Rs. 6 lakhs per annum.
- (3) The additional liability on account of introduction of new section i.e. reimbursement of electricity and water bills of the Members, will be around Rs. 15 lakhs per annum.
- (4) The additional liability on account of increase of D. A. during Committee Meetings and Assembly sittings is around Rs. 8 lakhs per annum.
- (5) The additional liability on account of increase in accommodation charges during the official tour to other States is around Rs. 4 lakhs per annum.
- (6) The additional liability on account of increase of remuneration to the personal assistants to members is around Rs. 9 lakhs per annum.
- (7) The liability on account of extending housing loan to the Members is around Rs. 5 crores, during five years.
- (8) The additional liability on account of increase in pension of the ex-Members is around Rs. 20 lakhs per annum.

Memorandum Regarding Delegated Legislation

Clause 5 of the Bill provides for framing of rules to specify the conditions subject to which car advance shall be granted to the members so also to specify the installments and interest. Clause 6(2) of the Bill provides for framing of rules specifying the terms and conditions for the grant of housing advance and the manner in which the said advance shall be recovered from the salary and pension of the members. Clause 7 of the Bill provides for specifying by way of rules the rate of interest chargeable in case of default in payment of installment of any loan or advance. Clause 8 of the Bill provides for framing of rules as regards the fund for unrecoverable advances. Clause 12 of the Bill provides for framing of rules to specify the manner in which the nomination may be made. Clause 15 of the Bill provides for framing of rules to specify the manner in which the cost of petrol/diesel shall be borne by the Legislature Secretariat. Clause 16 of the Bill provides for framing of rules to specify the manner in which medical treatment shall be available to the members in hospitals maintained by the Government and also to provide for the manner in which the medical bills shall be sanctioned. Clause 17 of the Bill provides for framing of rules to specify the manner in which medical treatment shall be available to the ex-member and his wife so also the manner of sanction of the medical bills. Clause 19 of the Bill provides for framing of rules to specify the qualifications and terms and conditions subject to which a member may appoint personal assistants. Clause 20 of the Bill provides for framing of rules as regards supply of computers to the members. Clause 26 of the Bill empowers the Government or Speaker to frame rules for carrying out the purposes of the Act.

These delegations are of normal character.

Porvorim-Goa. FRANCISCO D'SOUZA
Minister for Legislative Affairs

Date: 2nd August, 2004.

Assembly Hall,
Porvorim-Goa SUDHIR NARVEKAR
Secretary to the Legislative
Date: 2nd August, 2004. Assembly of Goa

Governor's Recommendation under Article 207 of the
Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, Governor of Goa, hereby recommend the introduction and consideration of the Goa Salary, Allowances and Pension of Members of the Legislative Assembly Bill, 2004, by the Legislative Assembly of Goa.

LA/A/Bills/7080/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 2-8-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Contract Labour (Regulation and
Abolition) (Goa Amendment)
Bill No. 2004

(Bill No. 23 of 2004)

A

BILL

to amend the Contract Labour (Regulation and Abolition) Act, 1970, in its application to the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth year of the Republic of India as follows :

1. *Short title and commencement.*— (1) This Act may be called the Contract Labour (Regulation and Abolition) (Goa Amendment) Act, 2004.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. *Amendment of section 2.*— In section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (Central Act 37 of 1970) (hereinafter referred to as the "principal Act"), as in force in the State of Goa, in sub-section (1), after clause (d), the following clause shall be inserted namely:—

"(dd) "core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is

essential or necessary to the core activity, but does not include —

(1) sanitation works, including sweeping, cleaning, dusting, and collection and disposal of all kinds of waste;

(2) watch and ward services including security service;

(3) canteen and catering services;

(4) loading and un-loading operations;

(5) running of hospitals, educational and training institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment;

(6) courier services which are in the nature of support services of an establishment;

(7) civil and other constructional works, including maintenance;

(8) gardening and maintenance of lawns, etc;

(9) house keeping and laundry services, etc., where they are in the nature of support services of an establishment;

(10) transport services including ambulance services;

(11) any activity of intermittent nature even if that constitutes a core activity of an establishment; and

(12) any other activity which is incidental to the core activity.

Provided that the above activities by themselves are not the "core activities" of such establishment".

3. *Omission of sections 3 to 5.* — Section 3, 4, and 5 of the principal Act shall be omitted.

4. *Substitution of section 10.* — For section 10 of the principal Act, the following section shall be substituted, namely :—

"10. *Prohibition of employment of contract labour and appointment of designated Authority.*— (1) Notwithstanding anything contained in this Act, employment of contract labour in core activities of any establishment shall be prohibited:

Provided that the principal employer may engage contract labour or a Contractor to any core activity, if —

(a) the normal functioning of the establishment is such that the activity is ordinarily done through contractors; or

(b) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(c) there is any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time.

(2) The appropriate Government may by notification in the Official Gazette, appoint a designated authority to advise them on the question whether any activity of a given establishment is a core activity or otherwise.

(3) If a question arises as to whether any activity of an establishment is a core activity or otherwise, the aggrieved party may make an application in such form and manner as may be prescribed, to the appropriate Government for decision.

(4) The appropriate Government may refer any question by itself or on application made to them by any aggrieved party under sub-section (2) to the designated authority, which, on the basis of relevant material in its possession, or after making such enquiry as deemed fit, shall forward the report to the appropriate Government, within a prescribed period and thereafter the appropriate Government shall decide the question within the prescribed period".

5. *Substitution of section 31.* — For section 31 of the principal Act, the following section shall be substituted, namely:—

31. *Power to exempt in special cases.*— (1) The appropriate Government may, in public interest, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors, as the case may be.

(2) Where, the operation of any of the provisions of this Act, under sub-section (1) of section 31 has been excluded, such exclusion may at any time be revoked by the appropriate Government by subsequent notification in the Official Gazette.

6. *Amendment of section 35.* — In section 35 of the principal Act, in sub-section (2), clauses (a) and (b) shall be omitted.

Statement of Objects and Reasons

The Contract Labour (Regulation and Abolition) (Central Act 37 of 1970), is presently in force in the State of Goa.

Consequent upon globalization there has been substantial increase in the contract labour. The contract labour has also made its entry in the manufacturing processes. The menace of contract labour cannot be tackled within the framework of the existing provisions of the said Act, 1970. The processes of referring the issues to the State Advisory Contract Labour Board, appointment of committees/sub-committees, submission of the reports by the committees are time consuming. The plight of contract labour is worsening day by day in the absence of job security and regulations of service conditions.

It is, therefore, necessary that an amendment is carried out to said Act, 1970 to curb the expansion of the contract labour. The proposed Bill defines the "core activities" of an establishment where contract labour shall be prohibited. The amendments may go in long way to secure relief to the workers and check un-warranted use of contract labour in core activities where jobs on perennial basis are carried out. Extensive use of contract labour unleashed by the employers shall be effectively curbed and controlled by the proposed amendment. The proposed amendment shall confer the powers on the enforcement machinery to prohibit contract labour in core activities especially in the un-organised sector where there is no protection to the contract labour.

The proposed amendment shall also set at rest the ambiguities about the processing operations which are incidental or of perennial nature in an industry, trade, business, manufacture or occupation that is carried out in the establishment.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

Proposed sub-section (2) of substitution of section 10 empowers the Government to appoint designated authority to advise the Government on

the question whether any activity of a given establishment is a core activity or otherwise.

Proposed sub-section (3) of section 10 empowers the Government to frame rules specifying the form and manner in which the aggrieved party may make an application to the Government.

Proposed sub-section (4) of section 10 empowers the Government to frame rules specifying the period within which the designated authority shall forward report to the Government and the period within which the Government shall decide the question.

Proposed sub-section (1) of section 31 empowers the Government in public interest to direct by notification that all or any of the provisions of the said Act, 1970, shall not apply to any establishment or class of establishments or any class of Contractors for such period or periods as may be specified in the notification. Sub-section (2) of section 31 empowers the Government to revoke the notification issued under sub-section (1) by subsequent notification in the Official Gazette.

These delegations are of normal character.

Assembly Hall,
Porvorim Goa,

DR. SURESH AMONKAR
Minister for Labour.

Dated : 27th July, 2004.

Assembly Hall,
Provorum - Goa.

SUDHIR NARVENKAR
Secretary (Legislature)

Dated : 29th July, 2004.

ANNEXURE

.....
Extract of the Contract Labour (Regulation and Abolition) Act, 1970
.....

Section 1

1. *Short title, extent, commencement and application.*—

(1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

(4) It applies —

(a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation.— For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature —

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

Section 2

Definition.— (1) In this Act, unless the context otherwise requires, —

(a) "appropriate Government" means, —

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;

(b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) "contractor", in relation to an establishment, means a person who under-takes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) "establishment" means, —

(i) any office of department of the Government or a local authority, or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "principal employer" means, —

(i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named;

(h) "wages" shall have the meaning assigned to it in clause (vi) of Section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person —

(A) who is employed mainly in a managerial or administrative capacity; or

(B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

(C) who is an out-worker, that is to say, a person to whom any articles and materials are given out by or on behalf of the principal employer and the process is to be carried out either in the home of the out-workers or in some other premises, not being premises under the control and management of the principal employer.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Section 3

Central Advisory Board.— (1) The Central Government shall, as soon as may be, constitute a Board to be called the Central Advisory Contract Labour Board (hereinafter

referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of —

(a) a Chairman to be appointed by the Central Government;

(b) the Chief Labour Commissioner (Central), ex officio;

(c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

Section 4

State Advisory Board. — (1) The State Government may constitute a Board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of —

(a) a Chairman to be appointed by the State Government;

(b) the Labour Commissioner, ex officio, or in his absence any other officer nominated by the State Government in that behalf;

(c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their

functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

Section 5

Power to constitute committees. — (1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

Section 10

Prohibition of employment of contract labour. — (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as —

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupations carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation. — If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

Section 31

Power to exempt in special cases. — The appropriate Government may in the case of an emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or an class of contractors.

Section 35

Power to make rules. — (1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the number of persons to be appointed members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) the times and places of the meetings of any committee constituted under this Act, the procedure to be followed at such meetings including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee.

Assembly Hall,
Porvorim - Goa.
Dated : 27th July, 2004.

(SUDHIRA. NARVENKAR)
Secretary (Legislature)

LA/A/Bills/7081/2004

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 2-8-2004 is hereby published for the general information in pursuance of the provisions of Rule - 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Sales Tax (Amendment)
Bill, 2004

(Bill No. 28 of 2004)

A

BILL

furthur to amend the Goa Sales Tax Act, 1964.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Sales Tax (Amendment) Act, 2004.

(2) It shall come into force at once.

2. *Amendment of section 7A.*— In section 7A of the Goa Sales Tax Act, 1964 (Act 4 of 1964)(hereinafter referred to as the "principal Act"),

(i) in sub-section (1), for the words "fifteen crores", the words "three crores" shall be substituted;

(ii) after sub-section (1), the following proviso shall be inserted, namely:—

"Provided that, in calculating the additional tax payable by the dealer, the tax payable under this Act in respect of sales of declared goods specified under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall not be taken into consideration."

3. *Amendment of section 15B.*— In section 15B of the principal Act, (i) in sub-section (1), for the word "individual", the word "industrial" shall be substituted;

(ii) in sub-section (2), after the expression "Government Treasury" and before the expression "by the said employer", the expression "in such manner as may be prescribed", shall be inserted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) Any such employer making such deduction under sub-section (1) shall, in respect of every quarter in which such deduction is made, send to the prescribed authority the receipt from Government Treasury showing the payment of such amount deducted alongwith a statement in the prescribed form containing details of the Works Contract under execution and tax deducted thereon, within the prescribed time, and shall furnish a certificate in the prescribed form to the dealer specifying the amount so deducted and such other particulars as may be prescribed."

(iv) in sub-section (5), for the expression "2% per month or part thereof on the amount due and deductible", the expression "15% per annum" shall be substituted;

(v) the existing provision of sub-section (6) shall be numbered as clause (a) of sub-section (6) and after clause (a) as so numbered, the following clause shall be inserted, namely:—

“(b) Subject to the conditions and the circumstances as may be prescribed, the Commissioner may certify on an application made by any registered dealer that no deduction or deduction at such lower rate as he may decide shall be made in respect of such registered dealer.”

Statement of Objects and Reasons

In the 26th meeting of Sales Tax Advisory Committee, certain recommendations were made concerning the issue of Tax deducted at source. Further, in the light of experience gained in enforcing the provisions of the Goa Sales Tax Act, 1964 (Act 4 of 1964) and difficulties faced, it is felt necessary to carry out following amendments to the said Act, 1964.

An additional tax is payable by the dealer under section 7A of the said Act if his gross turnover of sales on petroleum products exceeds fifteen crores of rupees in a year. This limit being much higher, new dealers in petroleum products gets excluded which besides reducing the additional tax collection also causes disparity in prices.

It is therefore, proposed, to amend sub-section (1) of section 7A of the said Act, 1964, so as to bring down gross turnover limit to three crores.

As per restriction contained in section 15 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), tax on declared goods cannot exceed 4%. 'Aviation Turbine Fuel sold to a Turbo-Prop Aircraft' has been declared taxable at 4%. No additional tax, therefore, can be levied on sales of 'Aviation Turbine Fuel sold to a Turbo-Prop Aircraft'.

The Bill, therefore, seeks to insert a proviso to sub-section (1) of section 7A of the said Act for excluding sales of declared goods from payment of additional tax.

The Bill seeks to amend sub-section (1) of section 15B of the said Act, 1964, so as to substitute the word 'individual' by the word 'industrial' for harmonious construction.

The Bill seeks to amend sub-section (2) of section 15B of the said Act so as to empower Government to frame rules specifying the manner in which tax deducted should be remitted in Government Treasury.

The Bill seeks to amend sub-section (3) of section 15B of the said Act so as to specify that the employer is required to furnish the receipt from Government Treasury showing the payment of amount deducted at source.

The Bill seeks to amend sub-section 5 of section 15B of the said Act, 1964, so as to bring interest rate provided in that sub-section in conformity with the interest rate provided under section 17B.

The Bill seeks to amend sub-section (6) of section 15B of the said Act so as to provide power to the Commissioner to certify, subject to such conditions and such circumstances as may be provided in the rules, non-deduction of tax at source or deduction at such lower rate as he may decide.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendments.

Memorandum Regarding Delegated Legislation

Proposed sub-section (3) of section 15B empowers the Government to frame rules to specify the authority to whom receipt from Government Treasury shall be sent. Also, it empowers the Government to specify form of statement as stated therein and time of filing the same.

Proposed clause (b) of sub-section (6) of section 15B seeks to empower the Government to specify the conditions and circumstances in which Commissioner may certify the application of dealer filed under that clause.

These delegations are of normal character.

Porvorim Goa.
29th July, 2004.

Manohar Parrikar
Chief Minister

Assembly Hall,
Porvorim Goa.
29th July, 2004.

(S. A. Narvekar)
Secretary (Legislature)

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax (Amendment) Bill, 2004.

ANNEXURE

Extract of the Goa Sales Tax Act, 1964 (Act 4 of 1964)

Section 7A

Levy of Additional Tax.

(1) There shall be levied and collected from every dealer liable to pay tax under this Act whose gross turnover of sales on petroleum products exceeds fifteen crores of rupees in a year, an additional tax at the rate of twenty five paise in the rupee on the sales tax payable by such dealer for that year under this Act.

(2) Notwithstanding anything contained in this section, no dealer shall be entitled to collect any sum by way of additional tax payable by him under this section.

(3) The provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the additional tax as they apply in relation to the tax payable under this Act.

Section 15B

Tax Deduction at Source.

(1) Notwithstanding anything contained in this Act, any employer including the Central Government, the State Government, or an individual, or a commercial or trading undertaking of the Central Government, or of the State Government, any Company registered under the Companies Act, 1956, any local authority or any person or dealer registered under this Act shall deduct tax from, and out of the amount payable by such employer to a dealer to whom a works contract has been awarded involving transfer of property in goods (whether as goods or in some other form), at the rate of 3% on half the value of the Works Contract undertaken by such dealer which shall be deemed to be on account of property of goods in the nature of such contracts:

Provided that, no such deduction shall be made where the amount or the aggregate of the amount payable to a dealer by such employer is less than thirty thousand rupees during a year.

(2) The tax deducted under sub-section (1) shall be remitted to the Government Treasury by the said employer making such deduction within 30 days from the end of the month during which deduction of the amount is made:

Provided that the employer shall remit into the Government Treasury the full amount of tax due and deductible by him under sub-section (1) from the dealer irrespective of the actual amount of tax deducted by him from such dealer.

(3) Any such employer making such deduction under sub-section (1) shall in respect of every month in which such deduction is made, send to the prescribed authority a statement in the prescribed form within the prescribed time containing details of the Works Contract under execution and tax deducted thereon, and shall furnish a certificate in the prescribed form to the dealer specifying the amount so deducted and such other particulars as may be prescribed.

(4) Any such employer who remits the tax into the Government Treasury under sub-section (2) shall be deemed to have made payment of tax under the authority of the said dealer.

(5) If any such employer fails to remit into the Government Treasury the amount due and deductible as required by sub-section (2) within the specified time the Assessing Authority after such enquiry as it deems fit and after giving to such employer a reasonable opportunity of being heard, on being satisfied that the said employer has failed to discharge the liability under sub-section (2), shall levy and recover from the employer interest at the rate of 2% per month or part thereof on the amount due and deductible, and by order in writing shall direct such employer to pay the interest in addition to such amount.

(6) No such deduction shall be made under sub-section (1) in respect of such dealers, as may be notified by the commissioner from time to time.

(7) If any Works Contract for execution for the authorities specified in sub-section (1), involves only labour or services but does not involve transfer of property in goods and it is certified to be so by the Appropriate Assessing Authority or by the Assessing Authority of the area on an application made by any dealer, the provisions of sub-section (1) shall not apply and every such application shall be disposed off by the Assessing Authority within one month from the date of receipt, either by issue of certificate as aforesaid or by endorsement intimating ineligibility to such a certificate to the dealer, as the case may be.

(8) Payment by way of deduction in accordance with the provisions of this section shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the Works Contract.

Assembly Hall,
Porvorim -Goa.
29th July, 2004.

(S. A. Narvekar)
Secretary (Legislature)